

IN RE: PETITIONS FOR SPECIAL EXCEPTION \* BEFORE THE  
AND ZONING VARIANCE - NE/S  
Wise Avenue, 290' W of the c/l \* ZONING COMMISSIONER  
of North Point Boulevard  
15th Election District \* OF BALTIMORE COUNTY  
5th Councilmanic District  
Case No. 89-293-XA  
Kenwood Associates Ltd. Part.  
Petitioners

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Petitioners herein request a special exception for living quarters in a commercial building, and variances to permit a building to building setback of 30 feet in lieu of the maximum required 60 feet, and signage totalling 180 sq.ft. in lieu of the maximum permitted 100 sq.ft., as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Thomas J. D'Alesandro III, Partner, and the Contract Purchaser, Public Storage, Inc., by Cheryl P. Hamilton and Lisa Brigati, appeared, testified and were represented by E. Harrison Stone, Esquire. Also appearing on behalf of the Petitions was Anthony J. Cortale with STV/Lyons Associates.

Testimony indicated that the subject property, zoned B.R., consists of 1.214 acres more or less and is located near the intersection of Wise Avenue and North Point Boulevard. The property is bordered by a Bethlehem Steel right-of-way on the northwest side, a church and dwelling on the north, a bar/tavern on the southeast side and a manufacturing company on the west side across from the site on Wise Avenue. Petitioners propose constructing a mini warehouse facility with a manager's office and living quarters as depicted in Petitioner's Exhibit 1. Testimony proffered by Mr. Cortale indicated that the proposed use is permitted as of right in the B.R. zone and that the requested special exception for

living quarters is merely for Petitioners to provide on-site security at all times. Mr. Cortale testified the mini warehouse facility proposed is for public storage only. Further testimony indicated that all special exception requirements as set forth in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) will be met by this project.

Testimony presented as to the requested sign variance indicated Petitioners propose installing two identification signs totalling 180 sq.ft. each, one facing North Point Boulevard and the other facing Wise Avenue. Ms. Hamilton testified the sign proposed for North Point Boulevard will be 50 sq.ft. per side; the sign proposed for Wise Avenue will be 40 sq.ft. per side. Testimony indicated the size of the signs proposed is necessary due to the fact that the subject property faces two major streets. The Petitioner provided a rendering of the proposed sign identified herein as Petitioner's Exhibit A and a plan showing the intended placement of the two signs as set forth in Petitioner's Exhibit B. Further testimony indicated the requested building to building setbacks are necessary in order to develop the property as proposed. Petitioner testified to the requirements of Sections 307 and 502.1 of the B.C.Z.R. and indicated that the granting of the requested variance will not be detrimental to the health, safety or general welfare of the public.

It is clear that the B.C.Z.R. permits the use proposed in a B.R. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the relief requested in the special exception and variances should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of February, 1989 that the Petition for Special Exception for living quarters in a commercial building, and the Petition for Zoning Variance to permit a building to building setback of 30 feet in lieu of the maximum required 60 feet, and signage totalling 180 sq.ft. in lieu of the maximum permitted 100 sq.ft., in accordance with Petitioner's Exhibits 1, A, and B, be and are hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order, however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

-4-

**PETITION FOR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a living quarters in a commercial building pursuant to Sect. 236.4.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Public Storage, Inc. (Type or Print Name)  
Signature: Cheryl P. Hamilton  
Address: 4707 Eisenhower Ave.  
City and State: Alexandria, VA 22304

Legal Owner(s): Kenwood Associates General Partnership (Type or Print Name)  
Signature: Thomas J. D'Alesandro, III  
Address: 5 Light Street (301) 722-0114  
City and State: Baltimore, MD 21202

Attorney for Petitioner: E. Harrison Stone (Type or Print Name)  
Signature: E. Harrison Stone  
Address: 102 W. Pennsylvania Avenue  
City and State: Towson, Maryland 21204

Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Cheryl P. Hamilton  
Address: 4707 Eisenhower Ave.  
City and State: Alexandria, VA 22304  
Phone No.: (703) 370-2545

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of Nov, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27th day of JAN, 1989, at 9:30 o'clock A.M.

2.C.O.-No. 1

(over)

**PETITION FOR ZONING VARIANCE**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 238.1, 238.2, and 102.2, as set forth below, to allow a building to building setback of 30' in lieu of the maximum required 60'; and Sect. 413.21 to permit 180 total square feet of signage in lieu of the permitted 100 square feet of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

- 1.) Strict compliance with setback requirement would unreasonably prevent use of property for a permitted purpose and would be unnecessarily burdensome.
- 2.) Relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare are secured.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Public Storage, Inc. (Type or Print Name)  
Signature: Cheryl P. Hamilton  
Address: 4707 Eisenhower Avenue  
City and State: Alexandria, VA 22304

Legal Owner(s): Kenwood Associates General Partnership (Type or Print Name)  
Signature: Thomas J. D'Alesandro III  
Address: 5 Light Street (301) 722-0114  
City and State: Baltimore, MD 21202

Attorney for Petitioner: E. Harrison Stone (Type or Print Name)  
Signature: E. Harrison Stone  
Address: 102 W. Pennsylvania Avenue  
City and State: Towson, Maryland 21204

Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Cheryl P. Hamilton  
Address: 4707 Eisenhower Ave.  
City and State: Alexandria, VA 22304  
Phone No.: (703) 370-2545

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of Nov, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27th day of JAN, 1989, at 9:30 o'clock A.M.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2ER. (over)  
AVAILABLE FOR HEARING  
MON./TUES./WED. - NEXT TWO MONTHS  
ALL OTHER  
REVIEWED BY: JRH DATE 10-20-88

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3333

J. Robert Haines  
Zoning Commissioner

February 16, 1989



Dennis F. Rasmussen  
County Executive

E. Harrison Stone, Esquire  
102 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE  
NE/S Wise Avenue, 290' W of the c/l of North Point Boulevard  
15th Election District - 5th Councilmanic District  
Kenwood Associates General Partnership - Petitioners  
Case No. 89-293-XA

Dear Mr. Stone:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Zoning Variance have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: People's Counsel

File

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
PETITION FOR VARIANCE  
NE/S Wise Ave., 290' W C/L : OF BALTIMORE COUNTY  
North Point Blvd., 15th Election  
Dist.; 5th Councilmanic Dist. :  
KENWOOD ASSOCIATES GENERAL : Case No. 89-293-XA  
PARTNERSHIP, Petitioner :

**ENTRY OF APPEARANCE**

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Phyllis Cole Friedman*  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel  
Room 304, County Office Building  
Towson, Maryland 21204  
887-2188

I HEREBY CERTIFY that on this 24th day of January, 1989, a copy of the foregoing Entry of Appearance was mailed to E. Harrison Stone, Esquire, 102 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioner; and Cheryl P. Hamilton, Development Coordinator, Public Storage, Inc., 4707 Eisenhower Ave., Alexandria, VA 22304, Contract Purchaser.

*Peter Max Zimmerman*  
Peter Max Zimmerman







**INTER-OFFICE CORRESPONDENCE**

The Office of Planning and Zoning has no comment on the above petitions.

PK/sf

RECEIVED  
JAN 25 1989  
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

SUBJECT: COUNTY REVIEW GROUP COMMENTS DATE: 12/1/88

FROM: ZONING OFFICE

PROJECT NAME: Public Storage, Inc. PLAN: 11/3/88

LOCATION: NE/S Wise Avenue and  
SW/S of North Point Blvd.

REV.: REV.:

REVISED PLAN KEY:

- (X) COMPLIANCE WITH COMMENT CHECKED
- (O) NON-COMPLIANCE IS CIRCLED
- (BA) BE ADVISED (NOT NECESSARY FOR CRG APPROVAL, BUT MUST BE ADDRESSED PRIOR TO FINAL ZONING APPROVAL)

ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

DISTRICT: 15c7

1. On October 20, 1988 the following zoning petitions were filed in this office under Item #172 for Kenwood Associates General Partnership:
- a. Variance from S.238.1+2 and 102.2 to permit between building setbacks of 30' in lieu of the required maximum of 50 ft.; also S.413.2.f. to permit 180 total sq. footage of signage in lieu of the allowed 100 sq. ft.
  - b. Special Exception for living quarters in a commercial building.
- The petitions should be amended to include a detailed description of the variances - 5 at 30 ft. and 1 at 37 ft. in lieu of .....; also the itemized hearing requests on the Item # should be referenced on the plan. The zoning hearing plans should be updated as they are amended in the C.R.G. process. Final zoning approval would be contingent upon the outcome of the public hearing. (Amended at Pre-C.R.G. meeting.)
2. Clarify all of the building designs with a profile including the height that would also clearly show the proposed structure that fronts on North Point Blvd. Also, clarify the area for living quarters proposed for a caretaker or manager.

COUNTY REVIEW GROUP COMMENTS  
PROJECT NAME: Public Storage, Inc.  
DATE: 12/1/88  
PAGE 2

3. Exg-1 Note #9C to include the sq. footage of the office area and calculate the parking at 3.3/1,000 sq. ft. to be included in the total parking required. Note that all parking, maneuvering and driveway areas will be paved (indicate type) and curbed or striped. Dimension the parking setback from the street R/W and include curbing or wheel stops in the parking area.
4. Reference the previous Special Exception Hearing Case #68-109-X for 4 (12' x 25') outdoor advertising structures at 2 locations granted on 2/19/68 by the Deputy Zoning Commissioner. Plot the Special Exception areas granted and completely describe the intended future use. If the Special Exception areas granted are to be used for another purpose, the change must be addressed at the public hearing.
5. Update the zoning hearing plans with a larger vicinity map and include street centerlines and all setbacks from the street R/W. Show all building fronts.

W. Carl Richards, Jr.  
Zoning Coordinator

SC-

mar - Pull 1  
ROYSTON, MUELLER, McLEAN & REID  
ATTORNEYS AT LAW

R. TAYLOR McLEAN  
RICHARD A. REID  
E. HARRISON STONE  
MILTON R. SMITH, JR.  
C. S. KLINGHOFFER, III  
THOMAS F. McDONOUGH  
LAWRENCE F. HANSLIP  
  
LAUREL P. EVANS  
KEITH R. TRUFFER  
ROBERT S. HANDZO  
EDWARD J. GILLISS  
C. LARRY HOEFMEISTER, JR.  
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102 WEST PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204-4575  
(301) 823-1800  
TELECOPIER FAX (301) 828-7859

OF COUNSEL  
CARROLL W. ROYSTON  
H. ANTHONY MUELLER  
JOHN I. ASKEW

January 31, 1989

FEB 1 1989

**ZONING OFFICE**

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Item No: 172, Case No: 89-293-XA Kenwood Associates  
General Partnership

Dear Commissioner Haines:

Pursuant to your request at our hearing on Friday, January 27, 1989, I am hand delivering the following:

1. A revised plat, showing the location and dimensions of the signage for the property. As was presented at the hearing, the sign on Northpoint Boulevard will be 50 square feet on each side, for a total of 100 square feet. The sign on Wise Avenue will be 40 square feet on each side, for a total of 80 square feet. As indicated, our petitioners are seeking a Variance so as to permit a total of 180 square foot of signage in lieu of the allowed 100 square feet.
2. A picture of a typical Public Storage sign, which appears at the Petitioner's other sites. The dimensions for this sign are larger than the ones we propose.

If after reviewing the enclosed, you have any further questions, please let me know.

Thank you for your attention in this matter.

Sincerely yours,

E. Harrison Stone

EHS:dt  
0787h  
Enclosures

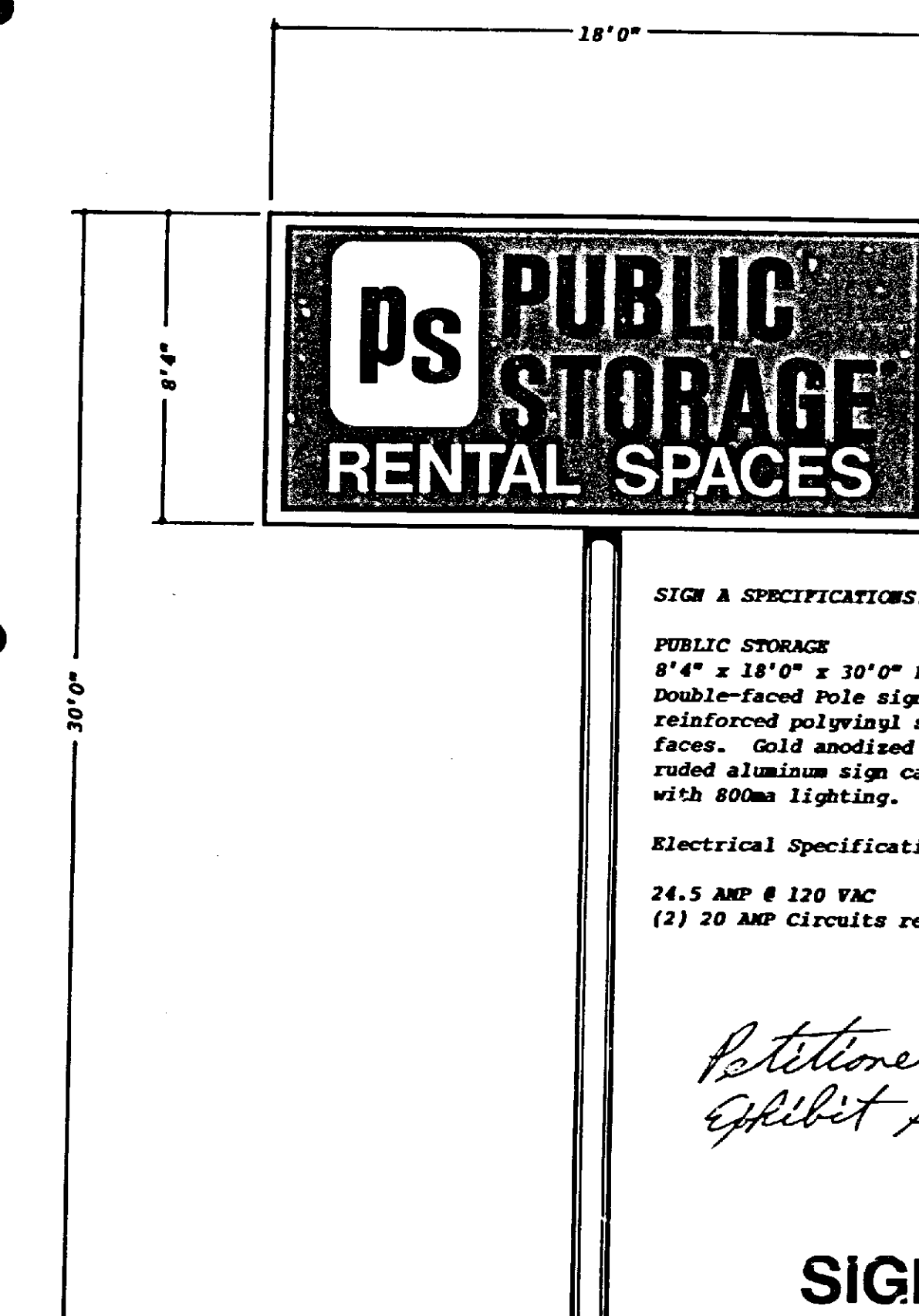
PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

<u>NAME</u>	<u>ADDRESS</u>
ANTHONY J. CORTEZ	21 GOVERNORS CT, 9449112
E. HARRISON STONE	102 W. PENNA AVE., TOWSON
Cheryl P. Hamilton	4707 Eisenhower Ave, ALEX, VA (b3)
Thomas S. D'Allesandro Sr	51165500 3 BALCO RD 21242 2170-2573
LISA BRIGATI	4407 eisenhower dr, Alex VA 22302

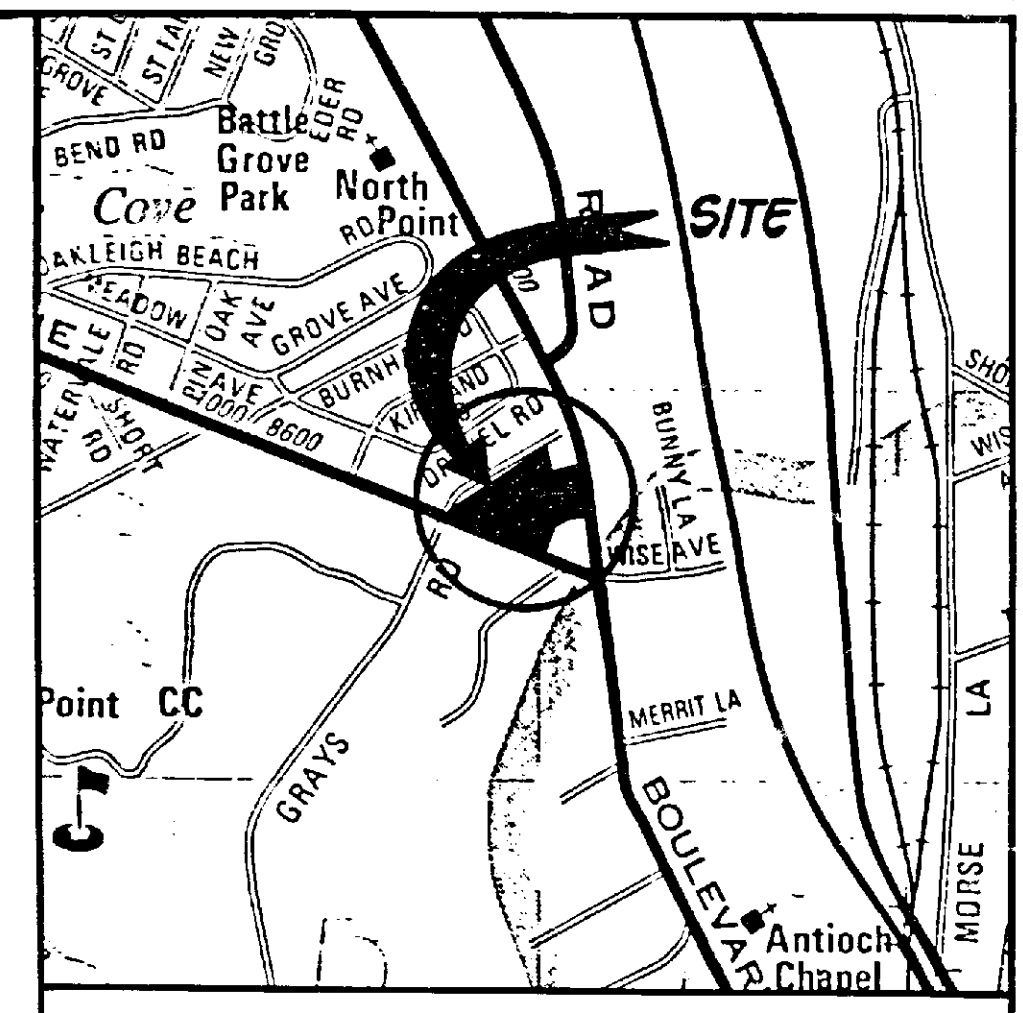
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NOTE: Dimensions as shown on these signs are larger than the signs specified for our site, but are typical of the signs specified in this case



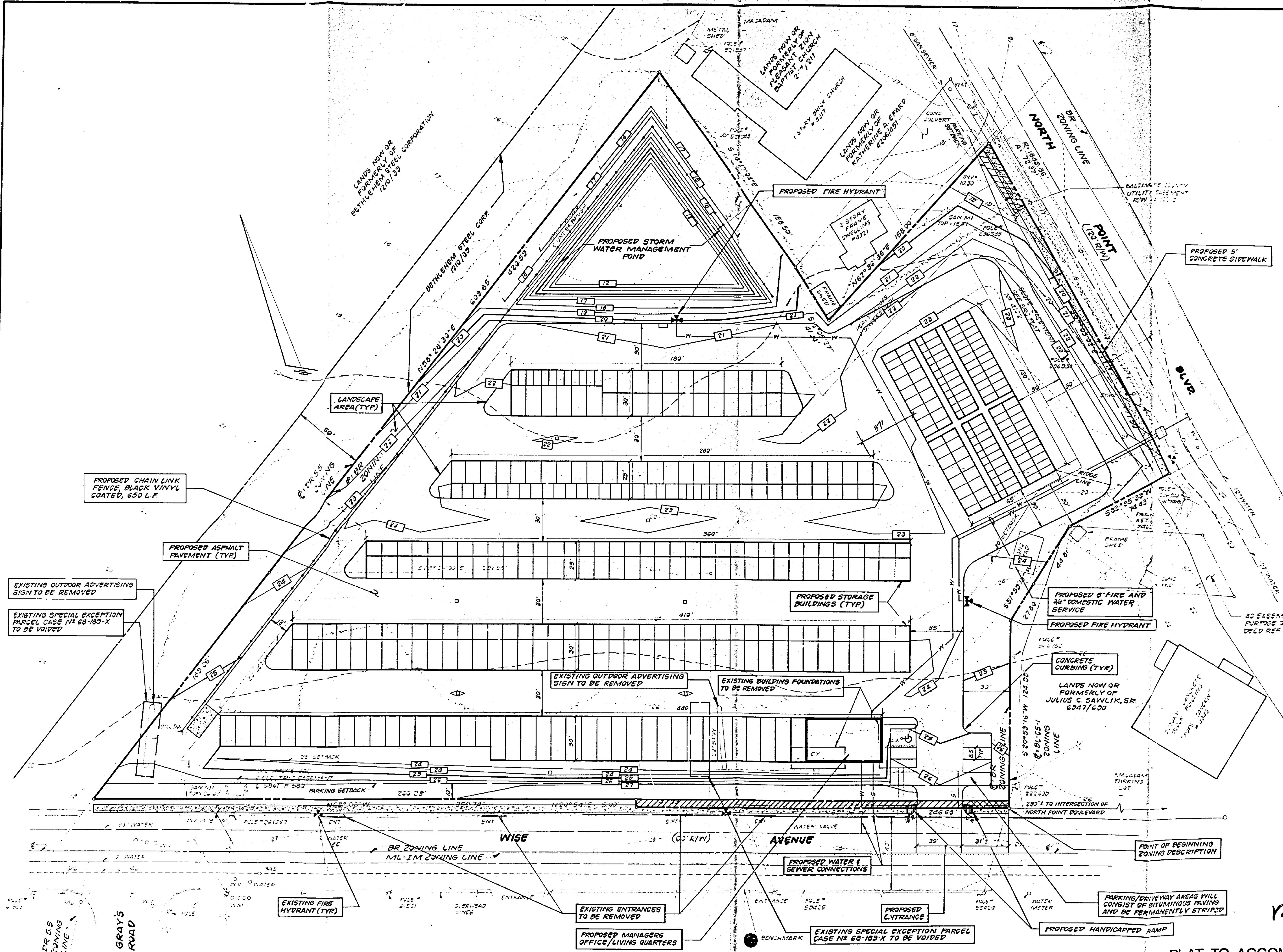
**SIGN A**





LOCATION MAP  
SCALE: 1"=1000'

- GENERAL NOTES**
1. ELECTION DISTRICT: 15
  2. EXISTING ZONING: BR  
PROPOSED ZONING: NO CHANGE
  3. SPECIAL EXCEPTION PER SECTION 236.4 TO ALLOW LIVING QUARTERS IN A COMMERCIAL BUILDING.
  4. PARKING REQUIREMENTS:  
WAREHOUSE - 1 PER EMPLOYEE ON THE LARGEST SHIFT = 2 /  
MOR. OFFICE - 500 SF @ 3.3/1000 SF = 1.65 / TOTAL REQ'D = 6  
MOR. RESIDENCE = 2 / TOTAL PROV'D = 8  
INCLUDES 1 HANDICAP SPACE
  5. SIGN VARIANCE REQUIRED: 5.432' TO PERMIT 180' TOTAL SR FOOTAGE OF SIGNAGE IN LIEU OF THE ALLOWED 100 SR FT.
  6. TOTAL FLR AREA: 52,000 SF OR 12.14 AC ±
  7. AMENDED DESCRIPTION OF VARIANCES: VARIANCE FROM S 238.1-2 AND 102.2 TO PERMIT BETWEEN BUILDING SETBACKS OF 5' 3.30" AND 1' 8.31" IN LIEU OF THE REQUIRED MAXIMUM OF 60'.



**PETITIONER'S EXHIBIT 1**

*Mark A. Riddle*

PLAT TO ACCOMPANY PETITION FOR

**SPECIAL EXCEPTION & VARIANCE**  
**PUBLIC STORAGE INC.**  
WISE AVENUE & NORTH POINT BOULEVARD  
BALTIMORE COUNTY, MD.

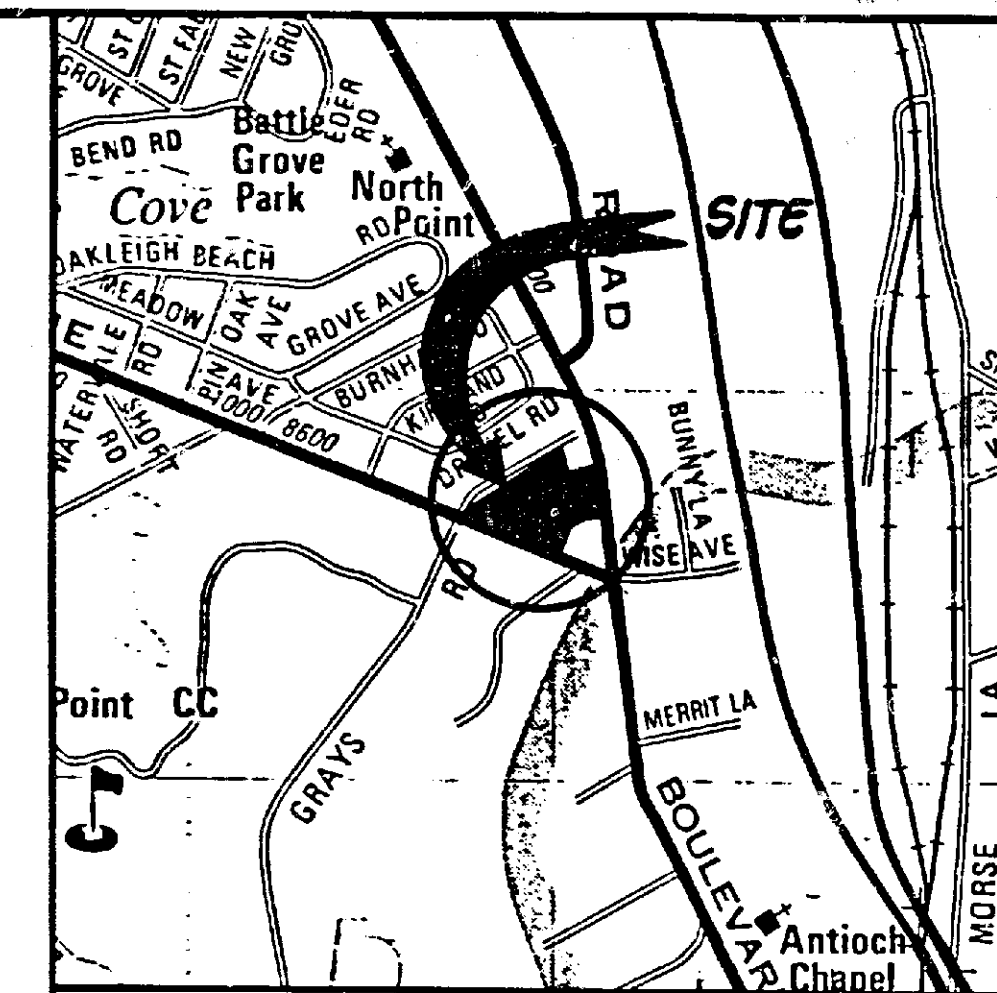
DRAWING NO.  
**SE-1**  
SHEET NO.  
**1 of 1**

**STV / LYON ASSOCIATES**  
Engineers Surveyors Planners  
21 Governor's Court Baltimore, Maryland 21207  
Telephone : 301-944-9112

REVISIONS		
NO	DATE	DESCRIPTION
1	10/17/88	MISC. FOR SUBMISSION MEETING
2	12/22/88	PER PLANNING & ZONING COMMENTS (CRG)

PLAN PREPARATION	
DRAWN BY	SJC
DESIGNED BY	AKG SJC
CHECKED BY	
DATE	10/13/88
SCALE	1"=30'
JOB NO.	61-8214

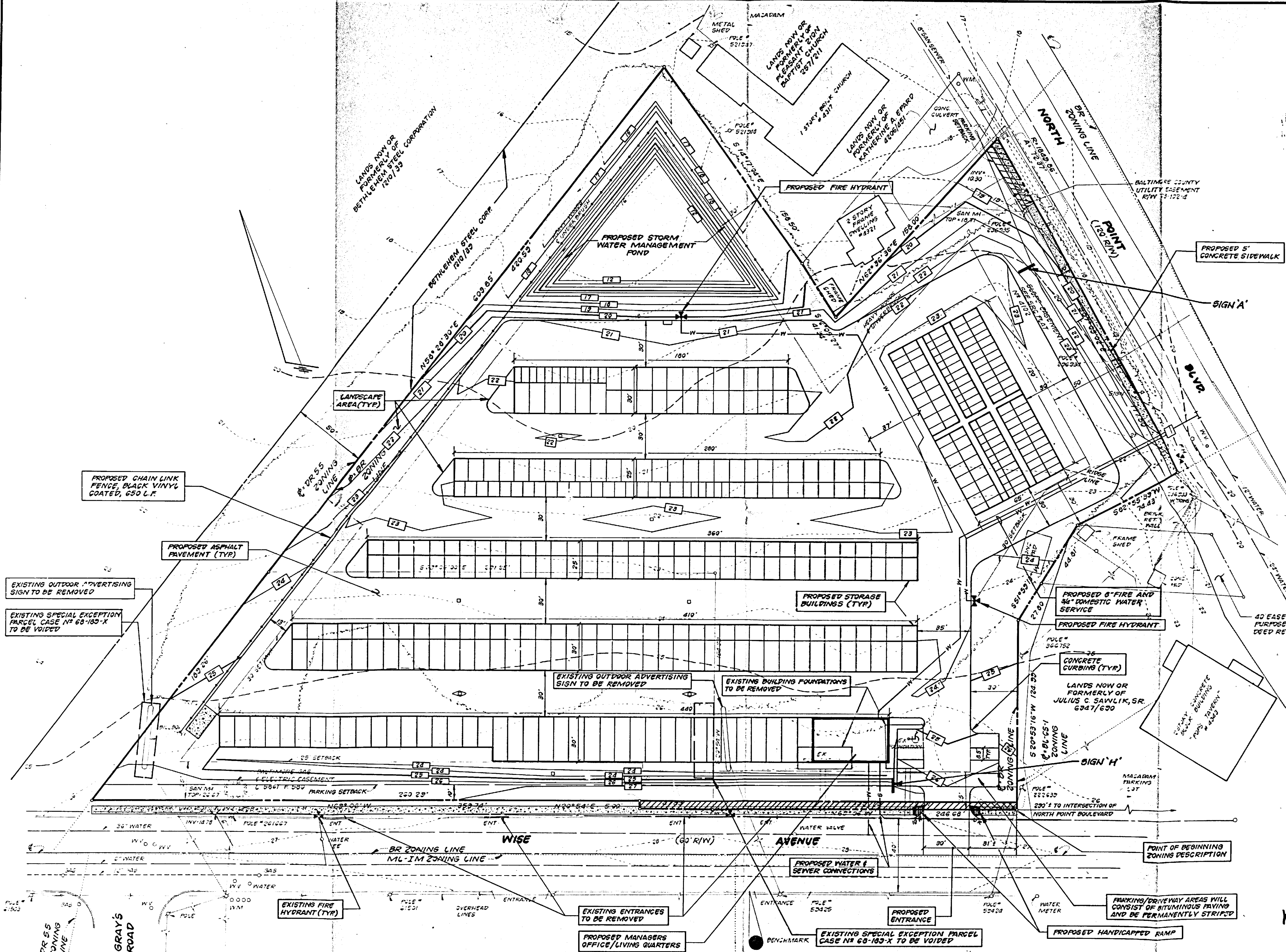




LOCATION MAP  
SCALE: 1" = 1000'

**GENERAL NOTES**

1. ELECTION DISTRICT: 15
2. EXISTING ZONING: BR  
PROPOSED ZONING: NO CHANGE
3. SPECIAL EXCEPTION PER SECTION 236.4 TO ALLOW LIVING QUARTERS IN A COMMERCIAL BUILDING.
4. PARKING REQUIREMENTS:  
WAREHOUSE - 1 PER EMPLOYEE ON THE LARGEST SHIFT \* 2 /  
OFFICE - 500 S.F. @ 33/1000 S.F. = 1.65 / TOTAL REQ'D \* 6  
MSR RESIDENCE \* 2 / TOTAL PROJ \* 8  
INCLUDES 1 HANDICAP SPACE
5. SIGN VARIANCE REQUIRED: 5.432 S.F. TO PERMIT 100 TOTAL SQ. FOOTAGE OF SIGNAGE IN LIEU OF THE ALLOWED 100 SQ. FT.
6. TOTAL FLR AREA: 52,000 S.F. OR 1214 AC±
7. AMENDED DESCRIPTION OF VARIANCES: VARIANCE FROM 5.238 M-2 AND 1022 TO PERMIT BETWEEN BUILDING SETBACKS OF 5.230' AND 1.037' IN LIEU OF THE REQUIRED MAXIMUM OF 60'.



*Petitioners  
Exhibit B*

*Mark A. Riddle*

**PLAT TO ACCOMPANY PETITION FOR**

**SPECIAL EXCEPTION & VARIANCE**  
**PUBLIC STORAGE INC.**  
WISE AVENUE & NORTH POINT BOULEVARD  
BALTIMORE COUNTY, MD.

**DRAWING NO.**  
**SE-1**  
**SHEET NO.**  
**1 of 1**

**STV / LYON ASSOCIATES**  
Engineers Surveyors Planners  
21 Governor's Court Baltimore, Maryland 21207  
Telephone : 301-944-9112

REVISIONS		
NO.	DATE	DESCRIPTION
1	10/17/88	MISC. FOR SUBMISSION MEETING
2	12/29/88	PER PLANNING & ZONING COMMENTS (CRO)

PLAN PREPARATION	
DRAWN BY	SJC
DESIGNED BY	AKG SJC
CHECKED BY	
DATE	10/13/88
SCALE	1" = 30'
JOB NO.	61-8214